

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1001(ss) be amended to read as follows:

1 Page 217, between lines 38 and 39, begin a new paragraph and
2 insert:

3 "SECTION 237. IC 8-10-1-2 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. As used in this
5 chapter, the following words and terms shall have the following
6 meanings, unless the context shall indicate another or different
7 meaning or intent:

8 (a) The word "commission" shall mean the Indiana Port
9 Commission created by section 3 of this chapter, or, if said commission
10 shall be abolished, the board, body or commission succeeding to the
11 principal functions thereof, or to whom the powers given by this
12 chapter to the commission shall be given by law.

13 (b) The word "port" shall include any place or places on Lake
14 Michigan, the Ohio River, and the Wabash River, natural or artificial
15 in which water-borne vessels capable of carrying articles of commerce
16 over navigable bodies of water may be loaded, unloaded or
17 accommodated.

18 (c) The words "port project" shall include any **of the following:**

19 (1) Facilities, adjuncts, and appurtenances necessary to operate a
20 modern port, including the dredging of approaches thereto, and
21 including, among other things, but not limited to breakwaters,
22 inner harbors, outer harbors, channels, canals, turning basins,

docks, wharves, piers, quays, slips, loading, unloading, handling and storage equipment, warehouses, refrigerating plants and equipment, elevators for the handling and storage of grain, coal and other bulk commodities, terminal buildings or facilities, railroad equipment and trackage, roadways, airplane landing fields, parking lots, garages, automotive equipment, tugs, ferries, maintenance and construction vessels, communication systems, sewers, drains, and works for the treatment of sewage, garbage, and wastes. ~~and~~

(2) The furnishing of utility service necessary to serve the property under the jurisdiction or control of the commission, and other buildings and facilities which the commission may deem necessary for the operation of the port.

(3) Any land, interest in land, site improvements, infrastructure improvements, buildings, structures, rehabilitation, renovation, and enlargement of buildings and structures, machinery, equipment, and furnishings for facilities located anywhere in Indiana that:

(A) are used for:

- (i) manufacturing, warehousing, distribution, or processing of tangible or intangible property; or**
- (ii) commercial, business, health care, or recreational activities (whether for profit or not for profit), except for activities related to a golf course, country club, massage parlor, tennis club, skating facility, racquet sports facility, hot tub facility, suntan facility, racetrack, airplane, skybox or other private luxury box, health club, facility primarily used for gambling, or store the principal business of which is the sale of alcoholic beverages for consumption off premises; and**

(B) promote the economic welfare of the state and serve a public purpose by creating a substantial likelihood of:

- (i) creating or retaining opportunities for gainful employment in Indiana;**
- (ii) increasing diversification of industry in Indiana;**
- (iii) creating additional income and prosperity for the state and its residents; or**
- (iv) otherwise creating business opportunities that serve a public purpose and will be of benefit to the health or general welfare of the state.**

(d) The word "cost" as applied to a port or port project shall embrace the cost of construction, the cost of acquisition of all land, rights-of-way, property, rights, easements and interests, including lands under water and riparian rights acquired by the commission for such construction, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, the cost of

1 relocating public roads, land or easements therefor, the cost of all
 2 machinery and equipment, financing charges, interest prior to and
 3 during construction and for not exceeding two (2) years after the
 4 estimated date of completion of construction, cost of engineering and
 5 legal expenses, plans, specifications, surveys, estimates of cost, traffic
 6 and revenues, other expenses necessary or incident to determining the
 7 feasibility or practicability of constructing any such project,
 8 administrative expense, and such other expenses as may be necessary
 9 or incident to the construction of the project, the financing of such
 10 construction and the placing of the project in operation.

11 (e) The word "owner" shall include all individuals, copartnerships,
 12 associations or corporations having any title or interest in any property,
 13 rights, easements and other interests authorized to be acquired by this
 14 chapter.

15 (f) The word "revenues" shall mean all fees, tolls, rentals, gifts,
 16 grants, moneys and all other funds coming into the possession or under
 17 the control of the commission by virtue of the terms and provisions of
 18 this chapter, but shall not include real property or personal property
 19 other than money, nor the proceeds from the sale of bonds issued under
 20 provisions of this chapter.

21 (g) The word "public roads" shall include all public highways,
 22 roads, and streets in the state, whether maintained by the state, county,
 23 city, township or other political subdivision.

24 SECTION 238. IC 8-10-2-2 IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. In addition to the
 26 powers conferred upon the Indiana port commission by other
 27 provisions of this article, the commission, whenever it finds that the
 28 economic welfare of the state would thereby be ~~benefited~~ **benefitted**,
 29 by additional employment opportunities, or by additional
 30 diversification of industry within the state, or by increased income or
 31 prosperity to the state and its residents, or for any other reason, shall
 32 have the power to acquire, construct, maintain, repair, police, and lease
 33 to others ~~such~~ facilities **located anywhere in Indiana** for
 34 manufacturing, storage, or processing of goods, or for the carrying on
 35 of commercial, business, or recreational activities. ~~as the commission~~
 36 ~~further finds will increase the water-borne traffic into or out of the port.~~
 37 Any such facilities and the site thereof shall not be exempt from
 38 property taxation, and the lessee in any lease thereof shall agree to pay
 39 all property taxes levied on such facilities and the site thereof. In
 40 exercising the powers granted in this section, the commission shall
 41 have all the powers granted to it by this article, in connection with a
 42 port project, and the term "port project", as used in IC 8-10-1, shall be
 43 deemed to include facilities, adjuncts, and appurtenances of the
 44 character referred to in this section. It is further declared that the
 45 acquisition, construction, maintenance, repair, policing of, and leasing
 46 to others of such facilities under the conditions set forth in this section

is a public purpose. Nothing in this section shall authorize the Indiana port commission to take, condemn, or disturb any property right or interest in property, existing on March 10, 1967, including permits and authorities to fill and reclaim submerged lands, or any facilities constituting all or part of any operating property or any private or public port. The Indiana port commission shall make reimbursement for any actual damage to any public or private facilities, including but not limited to breakwaters, water intakes, wharves, piers, boat docks, warehouses, and pipeline equipment resulting from the exercise by it of any powers granted to it by this section.

SECTION 239. IC 8-10-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 8. A port authority shall have full power and authority to do the following:

(1) Purchase, construct, sell, lease, and operate docks, wharves, warehouses, piers, and other port, terminal, or transportation facilities within its jurisdiction consistent with the purposes of the port authority and make charges for the use thereof.

(2) Straighten, deepen, and improve any canal, channel, river, stream, or other water course or way which may be necessary or proper in the development of the facilities of such port.

(3) Establish dock lines, piers, and other facilities necessary to the conduct of pleasure boating within the territory under the jurisdiction of the port authority.

(4) Regulate and enforce the regulation of all uses and activities related to the port in the area under the jurisdiction of the port authority and determine the use of land adjacent to waters under the jurisdiction of the port authority within a reasonable distance from the shore lines of such waters. However, this subdivision does not:

(A) affect the requirement that special standards for the safe operation of watercraft on public waters must be adopted by rule by the department of natural resources under IC 14-15-7-3; or

(B) authorize the assessment by the port authority of a charge or fee for the passage of a watercraft through the navigable waters of the state.

(5) Acquire, own, hold, sell, lease, or operate real or personal property for the authorized purposes of the port authority.

(A) The board of directors may, by resolution, recommend to the governing body of the municipality or municipalities creating the port authority that they authorize general obligations, mortgage, or revenue bonds for any one (1) or more of the following purposes:

(i) To acquire or improve port or harbor sites.

(ii) To acquire, construct, extend, alter, or improve structures, ways, facilities, or equipment necessary for the

proper operation of the port authority or the port or harbor within its jurisdiction.

(iii) To refund outstanding bonds and matured interest coupons and issue and sell refunding bonds for that purpose.

(B) Prior to a recommendation authorized by clause (A), the board shall give notice of a public hearing at which time the board shall disclose the purpose for which the bond issue is proposed, the amount of the proposed issue, and all other pertinent data. At least ten (10) days prior to the date set for hearing, the board shall publish in two (2) newspapers of general circulation in the city, county or counties, or such other municipalities involved, a notice of the time, place, and purpose of the hearing. If there is only one (1) paper one (1) notice shall be sufficient.

(C) The governing body shall review the proposal of the board of directors of the port authority and if it approves shall provide for the advertisement and sale of the issue in compliance with IC 5-1-11. For purposes of this chapter, IC 5-1-11 shall apply as fully to mortgage bonds as to general obligation or revenue bonds.

(D) Bonds issued under the authority of this chapter are not subject to limitations on interest rates.

(E) The governing body shall fix the time and place of payment of principal and interest, but no issue shall have a maturity date in excess of forty (40) years from date of issue.

(F) Bonds issued under the provisions of this chapter, together with the interest thereon, shall be tax exempt.

(G) The governing body shall apply the proceeds from the sale of bonds exclusively to the purposes for which the bonds were issued and only to the extent necessary therefor. Any remaining balance shall be placed in a sinking fund for the payment of the bonds and the interest thereon.

(H) Nothing in this chapter shall affect existing obligations on outstanding bonds. In case a board of directors or a port authority is discontinued as provided in section 4 of this chapter the primary obligations on its bonds shall remain unaffected. In addition, the city or county or municipalities involved in the issuance thereof shall assume liability for the payment of the bonds according to their terms and in relation to their interest or proportion therein.

(6) With the approval of the governing body creating it, sell, lease, or enter into a royalty contract for the natural or mineral resources of land which it owns. Moneys received from these sources shall be deposited in the nonreverting capital fund of the port authority.

(7) Apply to the proper authorities of the United States pursuant

1 to appropriate law for the right to establish, operate, and maintain
 2 foreign trade zones within the limits of the port authority and
 3 establish, operate, and maintain such foreign trade zones.

4 (8) Exercise the right of eminent domain to appropriate any land,
 5 rights, rights-of-way, franchises, easements, or other property
 6 necessary or proper for the construction or the efficient operation
 7 of any facility of the port authority, award damages to landowners
 8 for real estate and property rights appropriated and taken or
 9 injuriously affected, and in case the board of directors of the port
 10 authority cannot agree with the owners, lessees, or occupants of
 11 any real estate selected by them for the purposes herein set forth,
 12 proceed to procure the condemnation of the same as hereinafter
 13 provided, and in addition thereto, when not in conflict or
 14 inconsistent with the express provisions of this chapter, proceed
 15 under the general laws of the state of Indiana governing the
 16 condemnation of lands and the rights-of-way for other public
 17 purposes which may be in force at the time, and the provisions of
 18 such laws are hereby extended to ports and harbors and to the
 19 properties of port authorities as provided for herein so far as the
 20 same are not in conflict or inconsistent with the terms of this
 21 chapter. In any such proceeding prosecuted by the board of
 22 directors of a port authority to condemn or appropriate any land
 23 or the use thereof or any right therein for purposes permitted by
 24 this chapter, the board and all owners and holders of property or
 25 rights therein sought to be taken shall be governed by and have
 26 the same rights as to procedure, notices, hearings, assessments of
 27 benefits and awards, and payments thereof as are now or may
 28 hereafter be prescribed by law for the appropriation and
 29 condemnation of real estate, and such property owners shall have
 30 like powers and rights as to remonstrance and of appeals to the
 31 circuit or superior courts in the county in which such property
 32 sought to be appropriated is located. However, the payment of all
 33 damages awarded for all lands and property or interests or rights
 34 therein appropriated under the provisions of this chapter shall be
 35 paid entirely out of funds under the control of such port authority,
 36 except for the following:

37 (A) Upon written application of any property owner affected,
 38 any municipal corporation, or, as to areas outside the
 39 boundaries of a municipal corporation, any county,
 40 participating in the creation of a port authority, after ten (10)
 41 days written notice to the port authority and public hearing had
 42 thereon, may revoke the right of eminent domain to be
 43 exercised by the port authority as to any parcel or parcels of
 44 land inside its borders within sixty (60) days after the port
 45 authority has by resolution announced the lands, rights,
 46 rights-of-way, franchises, easements, or other property to be

1 taken.

2 (B) Nothing herein contained shall authorize a port authority
3 to take or disturb property or facilities belonging to any public
4 corporation, public utility, or common carrier, which property
5 or facilities are necessary and convenient in the operation of
6 such public corporation, public utility, or common carrier,
7 unless provision is made for the restoration, relocating, or
8 duplication of such property or facilities, or upon the election
9 of such public corporation, public utility, or common carrier,
10 for the payment of compensation, if any at the sole cost of the
11 port authority, subject to the following:

12 (i) If any restoration or duplication proposed to be made
13 hereunder shall involve a relocation of such property or
14 facilities, the new facilities and location shall be of at least
15 comparable utilitarian value and effectiveness and such
16 relocation shall not impair the ability of the public utility or
17 common carrier to compete in its original area of operation.

18 (ii) Provisions for restoration or duplication shall be
19 described in detail in the resolution for appropriation passed
20 by the port authority.

21 (9) Accept, receive, and receipt for federal moneys, and other
22 moneys, either public or private, for the acquisition, construction,
23 enlargement, improvement, maintenance, equipment, or operation
24 of a port or harbor or other navigation facilities, and sites therefor
25 and comply with the provisions of the laws of the United States
26 and any rules and regulations made thereunder for the expenditure
27 of federal moneys upon such ports and other navigation facilities.

28 (10) Maintain such funds as it deems necessary.

29 (11) Direct its agents or employees, when properly identified in
30 writing, and after at least five (5) days written notice, to enter
31 upon lands within the confines of its jurisdiction in order to make
32 surveys and examinations preliminary to location and
33 construction of works for the purposes of the port authority,
34 without liability of the port authority or its agents or employees
35 except for actual damage done.

36 (12) Sell or lease real and personal property not needed for the
37 operation of the port authority and grant easements or
38 rights-of-way over property of the port authority.

39 (13) Promote, advertise, and publicize the port and its facilities,
40 provide traffic information and rate information to shippers and
41 shipping interests, and appear before rate making authorities to
42 represent and promote the interests of the port.

43 **(14) Acquire, own, hold, sell, lease, or operate real or personal**
44 **property necessary for site improvements, infrastructure**
45 **improvements, buildings, structures, rehabilitation,**
46 **renovation, and enlargement of buildings and structures,**

machinery, equipment, and furnishings for facilities located anywhere in Indiana that:

(A) are used for:

(i) manufacturing, warehousing, distribution, or processing of tangible or intangible property; or

(ii) commercial, business, health care, or recreational activities (whether for profit or not for profit), except for activities related to a golf course, country club, massage parlor, tennis club, skating facility, racquet sports facility, hot tub facility, suntan facility, racetrack, airplane, skybox or other private luxury box, health club, facility primarily used for gambling, or store the principal business of which is the sale of alcoholic beverages for consumption off premises; and

(B) promote the economic welfare of the state and serve a public purpose by creating a substantial likelihood of:

(i) creating or retaining opportunities for gainful employment in Indiana;

(ii) increasing diversification of industry in Indiana;

(iii) creating additional income and prosperity for the state and its residents; or

(iv) otherwise creating business opportunities that serve a public purpose and will be of benefit to the health or general welfare of the state."

Renumber all SECTIONS consecutively.

(Reference is to HB 1001(ss) as printed June 3, 2002.)

Representative Cochran